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Patent Application

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. of:

Altman, Peter A.

Art Unit: 3764

Serial No.: 10/014,445

Examiner: Stephen D. Huang (orig. appl.)  
David M. Ruddy (appl. SN 09/146,120)

Filed: December 11, 2001

Atty. Docket No.: 23,403-05

Reissue of: U.S. Patent No. 5,551,427

For: Implantable Device for Penetrating and Delivering Agents to Cardiac Tissue

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TRANSMITTAL

Commissioner for Patents  
Washington, D.C. 20231

Sir:

Transmitted herewith are the following items:

1. Response to Notice to File Missing Parts of Nonprovisional Application;
2. Copy of the Notice;
3. A replacement reissue specification;
4. A Substitute Preliminary Amendment;
5. Check in the amount of \$81.00 in payment of the fee for added claims (9 @ \$9.00); and
6. Return receipt postcard.

The Commissioner is authorized to charge any further fee necessitated by this correspondence, or to refund any overpayment, to Deposit Account No. 12-0449.

Any questions regarding this filing can be directed to Frederick W. Niebuhr at the address and telephone number given below.

Respectfully submitted,  
Peter A. Altman

Date: August 5, 2002

By:   
Frederick W. Niebuhr  
Registration No. 27,717  
LARKIN, HOFFMAN, DALY & LINDGREN, LTD.  
1500 Wells Fargo Plaza  
7900 Xerxes Avenue South  
Bloomington, Minnesota 55431  
(952) 896-1574

CERTIFICATE OF MAILING

Pursuant to 37 C.F.R. 1.8, I hereby certify that this Transmittal and accompanying documents identified herein are being deposited with the U.S. Postal Service by First Class Mail, postage prepaid, in an enveloped addressed to: Commissioner for Patents, Washington, D.C. 20231, on the date of deposit indicated below.

Date of Deposit: August 5, 2002

  
Geralyn M. Vita

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RESPONSE TO NOTICE TO FILE MISSING PARTS OF  
NONPROVISIONAL APPLICATION

Commissioner for Patents  
Washington, D.C. 20231

Sir:

In reply to the Notice to File Missing Parts of Nonprovisional Application mailed June 3, 2002, the following items are enclosed:

1. Copy of the Notice;
2. A replacement reissue specification;
3. A Substitute Preliminary Amendment; and
4. Return receipt postcard.

REMARKS

The replacement reissue specification is arranged in the double-column format required by 37 C.F.R. 1.173(a)(1). No new matter has been added.

There are several amendments to the specification, as indicated by the accompanying Substitute Preliminary Amendment. First, the original title is replaced with a new title as indicated above, and by underlining in the amendment.

Second, the amendment adds material immediately following the title explaining the status of this application as a divisional of an earlier filed reissue application.

Finally, the amendment cancels original claims 1-26, and adds new claims 27-55.

The substitute preliminary amendment is presented for consideration in lieu of the preliminary amendment filed December 11, 2001. The present amendment complies with 37 C.F.R. 1.173(b), and as compared to the earlier amendment, more closely corresponds to the replacement specification. With respect to content, the present amendment confirms the changes to the specification and claims made by the preliminary amendment. In addition, the present amendment introduces dependent claims 32-55.

The applicant respectfully requests consideration of claims 27-55 on the merits, based on the replacement reissue specification as modified by the accompanying Substitute Preliminary Amendment.

Respectfully submitted,  
Peter A. Altman

Date: August 5, 2002

By:   
Frederick W. Niebuhr  
Registration No. 27,717  
LARKIN, HOFFMAN, DALY & LINDGREN, LTD.  
1500 Wells Fargo Plaza  
7900 Xerxes Avenue South  
Bloomington, Minnesota 55431  
(952) 896-1574

#### CERTIFICATE OF MAILING

Pursuant to 37 C.F.R. 1.8, I hereby certify that this Response to Notice to File Missing Parts of Nonprovisional Application and accompanying papers are being deposited with the U.S. Postal Service by First Class Mail, in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231, on the date of deposit indicated below.

Date of Deposit: August 5, 2002

  
Geralyn M. Vita



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**Patent and Trademark Office**  
**ASSISTANT SECRETARY OF COMMERCE AND**  
**CHIEF OF PATENTS AND TRADEMARKS**  
**Washington, D.C. 20231**

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/014,445	12/11/2001	Peter A. Altman	23,403-05

Frederick W. Niebuhr

Larkin, Hoffman, Daly & Lindgren, Ltd.  
1500 Wells Fargo Plaza  
7900 Xerxes Avenue South  
Bloomington, MN 55431-3333

Date Mailed: 06/03/2002

**NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION**

**FILED UNDER 37 CFR 1.53(b)**

***Filing Date Granted***

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

Correction of the following is required to complete the reissue application:

The reissue specification has not been provided in double-column format as is required by 37 CFR 1.173(a)(1). A surcharge is not required when supplying this item.

Consent of the assignee is missing. 37 CFR 1.172 requires that the reissue oath/declaration be accompanied by the written consent of all assignees. Until this item is supplied, the oath/declaration remains defective; thus, payment of the surcharge (\$130 for large entity; \$65 for small entity) under 37 CFR 1.53(f) and 37 CFR 1.16(e) is required in addition to the supplying of this item. See MPEP § 1410.01.

Consent of the assignee is present, but is unsigned. A statement of consent bearing the signature of an official authorized to act on behalf of the assignee(s) must be provided, to comply with 37 CFR 1.172. Until this item is supplied, the oath/declaration remains defective; thus, payment of the surcharge (\$130 for large entity; \$65 for small entity) under 37 CFR 1.53(f) and 37 CFR 1.16(e) is required in addition to the supplying of this item. See MPEP § 1410.01.

Assignee's statement under 37 CFR 3.73(b) establishing ownership of the patent is missing. 37 CFR 1.72 requires that all assignees consenting to the reissue establish their ownership interest in the patent by filing in the reissue application a statement in accordance with 37 CFR 3.73(b). See MPEP § 324. Until this item is supplied, the oath/declaration remains defective; thus, payment of the surcharge (\$130 for large entity; \$65 for small entity) under 37 CFR 1.53(f) and 37 CFR 1.16(e) is required in addition to the supplying of this item. See MPEP § 1410.01.

Assignee's statement under 37 CFR 3.73(b) is present, but is unsigned. A 37 CFR 3.73(b) statement bearing the signature of an official authorized to act on behalf of the assignee must be provided. Until this item is supplied, the

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oath/declaration remains defective;  payment of the surcharge (\$130 for large entity; \$65 for small entity) under 37 CFR 1.53(f) and 37 CFR 1.16(e) is required in addition to the supplying of this item. See MPEP § 1410.01.

*A copy of this notice MUST be returned with the reply.*



Office of Initial Patent Examination (703) 308-0910